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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,853	09/24/2003	Dinah W. Y. Sah	13751-034001 / A118 US	4306
26168	7590	02/06/2009		
FISH & RICHARDSON P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER WANG, CHANG YU	
			ART UNIT 1649	PAPER NUMBER
			NOTIFICATION DATE 02/06/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10669853	9/24/2003	SAH, DINAH W. Y.	13751-034001 / A118 US

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EXAMINER

Chang-Yu Wang

ART UNIT	PAPER
1649	20090130

DATE MAILED:

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Commissioner for Patents

The communication filed on 1/22/09 is not fully responsive to the Office communication mailed 12/22/08 for the reason(s) set forth on the attached Notice of Improper Request for Continued Examination (RCE).

Applicants argue that an IDS accompanied with an RCE request meets the "submission" requirement of 37CFR 1.114. In response, the IDS filed on 10/20/08 is not a proper submission for a request for an RCE after a final rejection. The only time that Applicants can file an IDS as a submission is when an RCE is filed after allowance. See MPEP 706.07(h)-II. Quote in full "A 'submission' as used in 37 CFR 1.114 includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. See 37 CFR 1.114(c). If a reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of 37 CFR 1.111. See 37 CFR 1.114(c). Thus, an applicant may file a submission under 37 CFR 1.114 containing only an information disclosure statement (37 CFR 1.97 and 1.98) in an application subject to a notice of allowance under 35 U.S.C. 151, but not in an application where the last Office action is a final rejection or an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935), or in an application that is under appeal.". See MPEP § 706.07(h)-II. [emphasis added]. The instant application is under a final rejection and thus is not eligible for an IDS-only RCE.

Applicant's time period set forth in the final Office action continues to run. See Notice of Improper Request for Continued Examination mailed 12/22/08.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chang-Yu Wang whose telephone number is (571) 272-4521. The examiner can normally be reached on Monday-Thursday from 8:30 AM to 6:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker, can be reached at (571) 272-0911.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/CYW/
Chang-Yu Wang, Ph.D.
1/30/09

/Jeffrey Stucker/
Supervisory Patent Examiner, Art Unit 1649

PTO-90C (Rev.04-03)